

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF ILLINOIS, EASTERN DIVISION

UNITED STATES OF AMERICA

v.

GARISHKUMAR RAY, also known as "GARISH RAY" and SAM SOANS

CRIMINAL COMPLAINT

CASE NUMBER:

UNDER SEAL

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief. From on and about approximately June 2005 through October 23, 2006 in Cook County, in the Northern District of Illinois and elsewhere, defendants did,

See Attachment A

I further state that I am a Special Agent, with the Drug Enforcement Administration and that this complaint is based on the following facts:

See Attached Affidavit.

Continued on the attached sheet and made a part hereof: X Yes No

Christopher J. Geer, Special Agent, Drug Enforcement Administration Signature of Complainant

Sworn to before me and subscribed in my presence,

Date at

Chicago, Illinois City and State

NAN R. NOLAN Name & Title of Judicial Officer

Signature of Judicial Officer

herein, and information received from other law enforcement officers, agents, and cooperating sources who participated in this investigation. Because this affidavit is being submitted solely for the purpose of establishing probable cause, it does not reflect all of my knowledge regarding this investigation.

3. The Federation of State Medical Boards adopted Model Guidelines in April 2000 that provide in pertinent part, that: "Treatment and consultation recommendations made in an online setting, including issuing a prescription via electronic means, will be held to the same standards of appropriate practice as those in traditional (face to face) settings. Treatment, including issuing a prescription, based solely on an online questionnaire or consultation does not constitute an acceptable standard of care."

4. Title 21, Code of Federal Regulations, Section 1306.04 provides as follows:

A prescription for a controlled substance to be effective must be issued for a legitimate medical purpose by an individual practitioner acting in the usual course of his professional practice. The responsibility for the proper prescribing and dispensing of controlled substances is upon the prescribing practitioner, but a corresponding responsibility rests with the pharmacist who fills the prescription. An order purporting to be a prescription issued not in the usual course of professional treatment or in legitimate and authorized research is not a prescription within the meaning and intent of section 309 of the Act (21 U.S.C. Section 829 and the person knowingly filling such a purported prescription, as well as the person issuing it, shall be subject to the penalties provided for violations of the provisions of

law relating to controlled substances.
(emphasis added.)

5. This affidavit is being submitted in support of a criminal complaint charging that, (1) beginning in approximately June 2005 and continuing through October 23, 2006, GARISHKUMAR RAY, a/k/a GARISH RAY, and SAM SOANS did conspire to distribute and dispense, and to cause to be distributed and dispensed, prescription drugs that are controlled substances, other than for a legitimate medical purpose and not in the usual course of professional practice, in violation of Title 21, United States Code, Section 846, Title 18, United States Code, Section 2, and Title 21, Code of Federal Regulations, Section 1306.04; (2) GARISHKUMAR RAY, also known as, GARISH RAY and SAM SOANS from approximately January 23, 2006 through October 23, 2006, did knowingly use a registration number which was fictitious, revoked, suspended, or expired in the course of obtaining controlled substances from pharmaceutical distributors, in violation of Title 21, United States Code, Section 843(a) and Title 18, United States Code, Section 2; and (3) GARISHKUMAR RAY, also known as, GARISH RAY and SAM SOANS from approximately January 23, 2006 through October 23, 2006, did knowingly use a registration number which was fictitious, revoked, suspended, or expired in the course of dispensing controlled substances, in violation of Title 21, United States Code, Section 843(a) and Title 18, United States Code, Section 2.

Background

6. This investigation was initiated in 2005 by the Drug

Enforcement Administration ("DEA") and the Food and Drug Administration ("FDA") after it was discovered that GARISH RAY and the Dawn National Pharmacy ("DNP") was supplying controlled substances to the PMeds internet pharmacy business operated by Gary Calow, Larry Calow, and Ricky Boros, a/k/a Vince Kwiatkowski¹ through DNP. The ensuing DEA-FDA investigation revealed that defendants GARISH RAY and SAM SOANS regularly distributed and dispensed and caused the distribution and dispensing of prescription drugs that are controlled substances without valid doctors' prescriptions through DNP and the website DNRXPHARMACY.COM.

7. Defendant GARISHKUMAR RAY, a/k/a GARISH RAY² is a pharmacist licensed by the State of Illinois. RAY is the chief operating officer of Dawn National Pharmacy, Inc. and DNRXPHARMACY.COM at 4215 and 4219 Commercial Way, Glenview, Illinois.

8. Defendant SAM SOANS is the marketing manager of

¹ On October 19, 2006, a sealed criminal complaint was filed in the District Court for the Northern District of Illinois charging Gary Calow, Larry Calow, Ricky Boros, a/k/a Vince Kwiatkowski with conspiring to distribute controlled substances in violation of Title 21, United States Code, Section 846.

² On February 4, 2005, RAY was charged by criminal complaint in case # 05-4020 in U. S. District Court for the District of New Jersey with one count of selling prescription drug samples in violation of 21 U.S.C. Sections 353(b)(1)(b) and (c) and one count of wire fraud in violation of 18 U.S.C. Section 1343 in connection with the sale of \$111,134.24 in prescription drug samples. On February 8, 2005, Ray was released on a \$150,000 surety bond to be secured by property. On February 14, 2006, RAY waived preliminary examination. The complaint remains pending in the case.

DNRXPHERMACY.COM who distributes and dispenses controlled substances over the internet on behalf of GARISH RAY.³

9. On or about October 25, 2005, RAY transferred ownership of DNP to a relative who lives with RAY at his residence in Glenview, Illinois. On August 31, 2006, RAY introduced himself to DEA UCA-2 as the CEO and President of DNP, Glenview, Illinois.

10. On or about December 16, 2005, DNP surrendered its DEA Certificate of Registration to an investigator for the Illinois Department of Professional Regulation. DEA records show that, on January 23, 2006, DNP's Registration had terminated on the basis that the pharmacy was out of business.

11. The DEA ARCOS system is an automated, comprehensive drug reporting system which monitors the flow of DEA Schedule II and Schedule III narcotic controlled substances from their points of manufacture through commercial distribution channels to points of sale or distribution at the dispensing/retail level. The ARCOS' records show that between January 23, 2006 and October 23, 2006, DNP obtained 101,600 dosage units of the Schedule III narcotic

³ On May 6, 2006, SAM SOANS at sam@dnrxpharmacy.com emailed the following message to GARISH RAY at dawnwholesale@hotmail.com: "Hi Garish Sir, Please find the attached sales report for the month of April 06. Let me know if you have any suggestions or advice. Best regards, Samuel Soans, Manager Marketing, DNRx Pharmacy." (This email message was obtained from MSN Hotmail pursuant to a federal search warrant.)

controlled substance hydrocodone⁴ from 6 different legitimate drug distributors. This amount does not include an additional 23,800 dosage units of hydrocodone that DNP ordered from pharmaceutical distributor A in September 2006. In addition, these amounts do not include many Schedule III and IV controlled substance such as Alprazolam (sedative) and Phentermine (diet pill), among others, that DNP obtained from drug distributors. Moreover, records show that DNP acquired controlled substances through the use of a suspended or expired DEA registration number in violation of Title 21, United States Code, Section 843(a)(2) because it surrendered its DEA registration number in December 2005. Furthermore, the DEA-FDA investigation has revealed that from December 16, 2005 to the date of this affidavit, DNP and DNRXPHARMACY.COM and the defendants named herein have distributed and dispensed controlled substances, and caused the distribution and dispensing of controlled substances without a DEA certificate of registration in violation of Title 21, United States Code, Sections 841(a) and 843(a)(2).

Information From Physician A

12. Physician A advised DEA agents on June 22, 2006 that he

⁴ Hydrocodone is a habit forming narcotic analgesic. It is marketed as Lorcet, Lortab, Dolacet, and Vicodin. Healthcare experts advise that persons with a history of alcohol or drug abuse; kidney disease; liver disease; asthma; urinary retention; an enlarged prostate; hypothyroidism; seizures or epilepsy; gallbladder disease; a head injury or Addison's disease should consult with a physician due to complications from taking hydrocodone.

has a medical license and practice in the Commonwealth of Puerto Rico. Physician A advised that he began authorizing prescriptions over the internet in approximately December 2005 to earn extra money even though he never spoke to, took a medical history from, or physically examined any of the customers of internet pharmacies. In late February 2006 or early March 2006, Physician A was referred to GIRISH RAY at DNP to approve prescriptions. Physician A then approved numerous prescriptions for RAY at DNP for Schedule III narcotic controlled substances such as Hydrocodone and other prescription drugs without having a doctor-patient relationship with DNP customers.⁵ Physician A further stated that RAY requested that he/she send RAY a copy of his DEA Registration along with a signed, blank prescription form, but Physician A refused. RAY also asked that Physician A assist RAY's associate SAM SOANS with a new internet pharmacy website and suggested that Physician A charge \$10 for every prescription that he/she approves over the website.

Results of Search Warrants on DNP Packages Shipped by DHL

13. On April 10, 2006, FDA agents intercepted an email from

⁵ Between February and July 2006, DEA agents found approximately 174 receipts for prescriptions authorized by Physician A in DNP's trash bin at 4215 Commercial Way, Glenview, Illinois.

Larry Calow⁶ to Beth Calow and customerservice@pmeds.com with the subject "Garish Tracking Numbers." The email contained an attachment entitled "DHL Ship - ShipmentDetail.csv". This attachment included account numbers, tracking numbers, dates, receiver addresses, billing and shipping information for a total of approximately 66 customers.

14. On April 18, 2006, federal search warrants for the contents of three of the DNP packages in interstate transit with DHL revealed that DNP was shipping controlled substances as well as prescription drugs that purported to be authorized by Physician B in Puerto Rico. The search warrants revealed the following:

(a) One package contained a bottle of pills with a label that contained the following information: DNP, 4215 Commercial Way, Glenview, IL 60025, RX# 1105, 2-17-06, the customers name and address in Lynwood, Washington, Tramadol Hcl 50 mg, Qty: 100, Refills: 0 Caraco, GR [GARISH RAY], 2-17-06, Plan: Cash. Tramadol is a non controlled medication that requires a prescription. The prescription was approved by Physician B⁷, who was licensed to

⁶ This email was intercepted pursuant to an Order signed by Acting Chief Judge Wayne Anderson authorizing the interception of electronic messages sent to and from email account lcalow@yahoo.com. Larry Calow was identified as the user of lcalow@yahoo.com through source information that was corroborated by subscriber information obtained from Yahoo! as well as identifiers in the text of the email messages.

⁷ Between February and September 2006, DEA agents found approximately 78 receipts for prescriptions authorized by Physician B in DNP's trash bin at 4215 Commercial Way, Glenview, Illinois.

practice medicine in Puerto Rico.

(b) A second package contained two bottles. One bottle contained approximately 55 white pills, with a label that contained the following information: DNP, 4215 Commercial Way, Glenview, IL 60025, RX# 1105, 2-17-06, the customers name and address in Prescott, Arizona, Lorazepam 2 mg, Qty: 180, Watson, GR [GARISH RAY] 2-17-06. Lorazepam is a Schedule IV Controlled Substance. The prescription was authorized Physician B in Puerto Rico.

The second bottle in this shipment contained Cortane-B Otic, a non-controlled medication that requires a prescription. The label on this prescription medication contained the same information regarding DNP and customer as above. Cortane-B Otic, Blansett, is a non-controlled substance that requires a prescription. Again, this prescription was authorized by Physician B.

c) A third package contained a bottle containing 200 Furosemide 40 mg pills, with a label that contained the same information as the other bottles with the name of a customer located in Irving, Texas. Furosemide is a non controlled medication that requires a prescription. This prescription was also approved by Physician B in Puerto Rico.

**Results of Three DEA Undercover Purchases
from DNRXPHARMACY.COM**

15. On May 4, 2006, an undercover DEA Agent ("UCA") placed an order for 60 tablets of Norco 10, 325 mg., with DNP's web-site

dnrxpharmacy.com. Norco is a brand-name for Hydrocodone, a Schedule III narcotic controlled substance. On May 04, 2006, SAMUEL SOANS using the email account sam@dnrxpharmacy.com asked whether the UCA had a prescription for the medication. SOANS closed the email message as follows: "Samuel Soans, Manager Marketing, DNRx Pharmacy, 1-800-643-3689 /sam@dnrxpharmacy.com, www.dnrxpharmacy.com."

16. When the UCA inquired whether a prescription was available through the website, SOANS replied, "if (sic) could give me sometime so that i can write prescription for you. To be honest, we do have an online doctor but i believe he will be ready by next week. If you can wait till Monday. I can get back to you."

17. On May 11, 2006, SOANS advised the UCA that 60 tablets of the generic form of Norco would cost \$120.99⁸ plus shipping. SOANS explained that one reason for the high cost was "you don't have prescription you need to pay the doctor consultation charge." On May 12, 2006, SOANS emailed the UCA, "I have shipped the medications. The total amount charged in (sic) your credit card is \$140.94." SOANS never asked the UCA to provide a medical history or phone number for a doctor to contact the UCA to discuss the medication.

⁸ On August 17, 2006, a survey of Chicago area retail pharmacies revealed the following prices for "Watson 853" tablets which are the generic equivalent to Norco 10 mg, both of which contain 10 mg of hydrocodone and 325 mg of acetaminophen: Target Pharmacy - \$40.99, CVS Pharmacy - \$38.59, and Walgreen's Pharmacy - \$49.79.

18. On May 15, 2006, DNP delivered one bottle containing 60 yellow pills marked Watson 853 to the UCA, with a label that contained the following information: DNP, 4215 Commercial Way, Glenview, IL 60025 (847) 827-4961, (800) 355-6551, RX# C2577, 5-12-06, Hydrocodone Bitar/Acetamin 10/325 MG, Qty: 60, Refills: 0, GR, [GARISH RAY] 5-12-06.⁹ The label showed that the medication was authorized by Physician A. The UCA had no contact with Physician A in connection with this prescription. The DEA North Central Laboratory confirmed that the pills received were Hydrocodone.

19. In June and July 2006, the UCA conducted two additional undercover purchases of Hydrocodone from dnrpharmacy.com by forwarding emails to SAMUEL SOANS at dnrpharmacy.com and requesting a refill of the Hydrocodone order. In each instance, SOANS did not require a prescription or doctor's authorization for the Hydrocodone refills. In each case, the UCA obtained the Schedule III narcotic controlled substance with only a credit card and a shipping address. Both refills were authorized by Physician C¹⁰, who is licensed to practice medicine in Puerto Rico and who had no contact with the UCA before or after the hydrocodone order was

⁹ On May 15, 2006, agents performed a trash pull at 4115 Commercial Way and obtained a prescription label receipt that confirmed that the UCA's order for the Schedule III controlled substance hydrocodone had been filled by DNP.

¹⁰ Between February and September 2006, DEA and FDA agents found approximately 275 receipts for prescriptions authorized by Physician C in DNP's trash bin at 4215 Commercial Way, Glenview, Illinois.

filled.

20. As a result, on June 13, 2006, dnrpharmacy.com shipped one bottle containing 60 yellow pills marked Watson 853 to the UCA, with a label that contained the following information: DNP, 4215 Commercial Way, Glenview, IL 60025 (847) 827-4961, (800) 355-6551, RX# C3374, 6-12-06, Hydrocodone Bitar/Acetamin 10/325 MG, Qty: 60, Refills: 0, GR, 6-12-06. The North Central Laboratory confirmed that the drugs were in fact hydrocodone. The shipping label listed G. RAY (GIRISH RAY) as the shipper.

21. Also, on July 12, 2006, dnrpharmacy.com shipped an identical package containing 60 Watson 853 hydrocodone pills to the UCA. The DEA North Central Laboratory confirmed that the pills received were hydrocodone. The shipping package label listed G. RAY (GIRISH RAY) as the shipper of the package.

DNP Filled Undercover Controlled Purchase Orders from PMeds.Com

22. On June 29, 2006, a FDA UCA ordered two packages of the prescription drug Tamiflu¹¹ from the PMeds website. PMeds did not require a doctor's prescription for the drugs. The FDA UCA made payment of \$209.97 for the drugs by credit card and PMeds, in turn, provided an order number. On or about July 6, 2006, DHL delivered a package containing Tamiflu medication to a FDA post office box from DNP at 4215 Commercial Way, Glenview. The Tamiflu

¹¹ In 2005, the FDA approved Tamiflu as a prescription drug for the treatment of Type A and B Influenza.

bore a label that showed that the medication was approved by Physician B. The FDA UCA had no contact with Physician B who authorized the prescription before receiving the medication.

DNP Dispenses Controlled Substances to Drug Abusers

23. On February 20, 2006, SAM SOANS at sam@dnrxpharmacy.com sent the following email message to GIRISH RAY at dawnwholesale@hotmail.com¹², "Hi Girish Sir, Mark who is (sic) purchased from us earlier wants to transfer his prescription. Let me know how we can move further Regards Sam". An attached message dated the same day read:

"To: Samuel, Subject: For your pharmacist, Importance: High, that read: "Hi Samuel! Thanks for your call to check on me and my level of satisfaction. For the written record, you have done very well and are truly an asset to Dawn Rx. As I mentioned when we last spoke, my records indicate I still have 2 refills remaining on a prescription series from an IP. I had switched to them after the one you transferred recently was banned from shipping to Tennessee, and they were banned last August. There should be a prescription with 2 refills for generic Lortab 10/500 (90 tabs) and carisoprodol 60 tabs x 2. The Rx numbers are as follows: The Lortab is C4521 and the Soma C4522, both originated by a Dr. Rodriguez and last filled on 08/23/05 after the reconsult. I know it is too soon to fill these considering what you last filled,¹³ but I would certainly like to get the

¹² The DEA obtained this email pursuant to federal search warrant.

¹³ The subject and text of this message established that SAM SOANS and dnrxpharmacy.com had previously dispensed hydrocodone to Customer A

prescriptions at your store ASAP. I do not know how cooperative the provider might be if you should have to contact them, but the number for 1st Emeds is (863)419-1503, 9-5 EST. In my opinion, however, Accumed should be able to handle the transfer without further problems. Regardless of the outcome, thank you and your pharmacist for trying. Namaste, my friend. Most Respectfully. [Customer A] "

24. Lortab 10/500 refers to a name brand hydrocodone, Schedule III Narcotic Controlled Substance with 10 mg of hydrocodone to 500 mg of acetaminophen. Soma is a name brand for carisoprodol a muscle relaxant that is currently under review by DEA for scheduling because of its abuse in conjunction with other pain killers. The DEA performed a criminal history check on Customer A and discovered the following: In December, 1981 Customer A was arrested for passing a forged prescription in Tennessee; in January 1983, he was arrested for possession of a controlled substance and possession of a schedule IV drug in Tennessee; in May, 1983 he was convicted of obtaining Hydromorphone, a schedule II drug by fraud in Tennessee; in October 1998, he was arrested for selling legend drugs¹⁴ and theft in Tennessee; in October 2000, he was arrested for 4 counts of passing worthless checks in Tennessee; in June 2001, he was arrested for a violation probation by possession of morphine and cocaine; and he was arrested in May, 2003 for acquisition of controlled substance by fraud in Tennessee.

¹⁴ Drugs requiring prescriptions are sometimes referred to as legend drugs because legislation requires labels with the legend, "Caution! Federal law prohibits dispensing without a prescription."

Conversations between DEA Undercover Agents and GARISH RAY and SAM SOANS

25. On August 4, 2004, GARISH RAY met with a the UCA and Physician A, who unbeknownst to RAY was then cooperating with the DEA and FDA, at DNP offices at 4215 and 4219 Commercial Way, Glenview, Illinois. RAY showed the UCA the area on the 4215 side of the office where pharmacy orders were processed as well as the space on the 4219 side of the office where RAY kept an office. RAY asked the UCA to obtain doctors to write prescriptions for DNP.

26. On August 14, 2006, the UCA met with GARISH RAY at a restaurant on the north side of Chicago. RAY told the UCA that he was expanding his business to other states and he needed local doctors for his pharmacies. RAY said that he can always use "far away doctors," but at some point the authorities will "appreciate" that RAY fills Tennessee prescriptions with Puerto Rican doctors. RAY stated, "pharmacy in Chicago, doctor in Puerto Rico, patient in Tennessee - doesn't make any sense". RAY again asked the UCA to obtain doctors to write prescriptions for DNP. RAY stated that he would pay the UCA \$10 for every prescription and that the UCA could keep \$2 and pass \$8 on to the doctors. RAY explained to the UCA that he wanted to use doctors from India because he is from India, but, if he approached an Indian doctor and explained his plan, the Indian doctor would not become involved. RAY stated that he needed a doctor fast that would agree to work with him. RAY related that he wanted to meet with the doctor that would work for the UCA to show the doctor RAY's pharmacy and to have the doctor

talk to SAMUEL SOANS. The UCA told RAY that Physician A's license had been revoked and RAY asked the UCA to have Physician A back date prescriptions prior to the date of revocation to cover existing orders for drugs.

27. On August 31, 2006, UCA introduced UCA-2 to GARISH RAY as a physician who may be willing to write prescriptions for RAY's pharmacies. RAY gave UCA-2 a business card describing RAY as the CEO and President of DNP, 4215 Commercial Way, Glenview, Illinois. RAY told UCA and UCA-2 that he was a pharmacist and drug wholesaler and that he owned his own line of generic pharmaceuticals and that he has also been a marketer for 20 years. RAY further stated that he started an internet pharmacy about 18 months ago and put his internet pharmacy offices next to his pharmacy offices in Glenview. RAY told UCA-2 that SAM SOANS can provide 15, 20, 30 drugs orders to UCA-2 a day. UCA-2 replied that he had concerns about losing his license if he participated in RAY's business. UCA-2 told RAY, "What you are asking a physician is to receive a prescription from an internet connection patient and sign off on the prescription." RAY replied, "Yeah." UCA-2 stated, "Now, that in itself is fine, but, that is not legal, because, I mean, there is a degree of illegality there because there is no true doctor-patient relationship." RAY responded, "Yeah, I know, I understand that."

28. On September 7, 2006, UCA-2 met with GARISH RAY at DNP's place of business at 4215 and 4219 Commercial Way, Glenview,

Illinois. RAY gave UCA-2 a tour of the premises and RAY identified numerous documents on the wall as various state shipping licenses. RAY told UCA-2 that there were some states such as Tennessee would not grant him a license to ship because his pharmacist was not licensed to work in those states. RAY added that he shipped to those states anyway because the laws allowed him to ship small amounts of drugs into those states. RAY added that there was no way for those states to know how many drugs he actually shipped without checking his books in Illinois.

29. RAY stated that he was shipping a couple hundred orders a week and that SOANS had been working for RAY for approximately one year. RAY telephoned SOANS and put him on speaker phone with UCA-2. SOANS told UCA-2 that www.dawnpharmacy.com¹⁵ offers a prescription form to customers who then click on a hyperlink to the form that provides a medical history questionnaire that would be forwarded to the UCA-2 in an e-mail. SOANS said that when UCA-2 e-mailed the names back to SOANS, he would then process the drugs orders. UCA-2 told SOANS in RAY's presence that he was concerned about the legality of this practice. UCA-2 stated, "you are asking a doctor to sign a prescription without a patient-doctor relationship." SAM SOANS replied, "right, that's true." UCA-2 then stated, "right, so that constitutes, by the government standards

¹⁵ When a customer contacts www.dawnpharmacy.com on the internet, they are transferred to the www.dnrpharmacy.com website.

that's illegal because you haven't really entered into a relationship with the patient. Do you understand that?" SAM SOANS answered, "yes, yes".

30. On September 15, 2006, UCA-2 had a conference telephone call with GIRISH RAY and SAM SOANS. GIRISH RAY explained: "Dr. J this is what we'll do to start with. Basically SAM (SOANS) will give you all the info then he will okay a prescription, you have to okay a prescription, uh, in that case, we, SAM (SOANS) will tell the pharmacist to go ahead and, uh, dispense a prescription with your authorization." UCA-2 asked if the medications were being shipped from India and RAY said, "no, no, no, they're being shipped from Glenview, right here." RAY added, "you know, we can legally, listen, if you tell me GIRISH, uh, give this product to this patient, I can legally make a prescription and put your name on it, you know." UCA-2 asked whether he/she would just be signing the spread sheet. RAY replied: "yes, yes and..." RAY added, "this is exactly what we used to do with [Physician A]." RAY stated that UCA-2 could fax or mail the spread sheet to the pharmacy. RAY mentioned that one doctor he was working with mailed the spread sheet signed in blue pen, which showed a signature is an original and not copied. RAY explained that he preferred a mailed spread sheet because "this way, I know when authority comes, I say listen, you know what, screw you, do not come talk to me, go talk to the doctor, uh, you know, it has more, it has more, uh, as far as

credibility for the pharmacy is concerned and again the same spread sheet will be used for accounting."

31. On September 18, 2006, SOANS told UCA-2 that he had eight or nine orders for UCA-2 to approve. SOANS further told UCA-2 that he was prepared to send the drug orders to UCA-2 by email and he asked UCA-2 to send his DEA Registration number to SOANS so SOANS could write the prescriptions in India. SOANS also asked UCA-2 what type of medication UCA-2 would approve and UCA-2 told SOANS that he could approve anything. SOANS then replied, "Anything, great, that's good." SOANS then asked: "What more do you like? I've taken their weight, their height, their date of birth and what more do you... need anything more apart from this?" UCA-2 stated that he would examine whatever information that doctors have reviewed in the past for SOANS. SOANS replied, "Yeah, yeah, the same form." UCA-2 told SOANS to send him the "most detailed [form] that you have, how is that." SOANS replied, "Okay."

32. On September 18, 2006, SOANS at "samuel"<sam@dnrxpharmacy.com sent two emails to UCA-2. The subject of the first message read: "Dnrx Orders 18. 09. 06, Dated: Tue, 19 Sep 2006 13:40:39." The message stated, "Hi Dr. Jay, It was nice talking to you. As promised, please find the orders for 18th September '06. You can call the patients and talk to them if you need any more details. Let me know if you need any more info or changes in the prescription form. Best Regards, Samuel Soans

Manager Marketing, DNRx Pharmacy 1-866-461-6855 / sam@dnrxpharmacy.com www.dnrxpharmacy.com." The attachment listed 12 customers who lived in states including Massachusetts, Minnesota, Louisiana, Mississippi and Washington, among others. Customer information included a date of birth, sex, height and weight, shipping address, the drug ordered, dosage and quantity. In addition, the attachment provided answers (all "Yes"), but failed to list the questions posed to the customers on the website. The drugs that SOANS sought to have UCA-2 authorize by prescription included hydrocodone (a Schedule III narcotic controlled substance), Alprazolam, Floricet, Soma, and Tramadol. SOANS second email to UCA-2 listed 11 additional customers' orders for controlled substances and prescription drugs similar to the first email for these customers located in New York state, Texas, Illinois, Alabama, Utah, and Washington, among others. Again, the attachment included just "Yes" answers and failed to list the related questions for the UCA-2 to authorize prescriptions.

REQUESTED SEARCH WARRANT

33. This affidavit is also made for the purpose of establishing probable cause in support of a warrant to search the premises at 4215 and 4219 Commercial Way, Glenview, Illinois, which are located in an office in a one-story, dark brown brick structure with a glass front door with two windows on opposite sides of the

door with the numbers 4215 and 4219 stenciled on the windows, with the words DAWN and AMKAS visible on the window to the right of the door in order to seize certain evidence relating to the commission of violations of the above-stated criminal offenses.

34. Based upon the investigation, 4215 and 4219 Commercial Way, Glenview, Illinois is GARISH RAY's business headquarters for DNP and dnrpharmacy.com. As detailed above, agents have observed GARISH RAY at the premises. In addition, RAY has met with UCA and UCA-2 within the premises of 4215 and 4219 Commercial Way to show the agents his business operation.

35. Based on my experience and the experience of other agents, illegal drug traffickers like GARISH RAY commonly keep books, records, receipts, notes, ledgers, money orders, and other papers relating to the transportation, purchase, packaging, sale, and distribution of controlled substances. They also maintain books, papers, and documents that reflect names, addresses, and/or telephone numbers of their suppliers, couriers, customers, and other associates in the drug trafficking organization. Many of these items may be maintained in either paper form or on computers, computer disks, CD-Rom disks, and related equipment.

36. When drug traffickers amass large proceeds from the sale of drugs, they attempt to legitimize these profits, often by using the services of foreign and domestic banks, other financial institutions, and real estate brokers, and that books and papers

related to such efforts, including, but not limited to, cashier's checks, money orders, telegrams, telexes, letters of credit and ledgers, are maintained in their and/or places of business.

37. Drug traffickers frequently take, or cause to be taken, photographs of themselves, their associates in the drug trade, property acquired from the distribution of drugs, and their product, and that such photographs are often kept in their residences and/or places of business.

38. Drug traffickers very often place assets, including real and personal property, such as vehicles, in different names to avoid detection and forfeiture of such assets by government agencies, and that the drug traffickers continue to use these assets and to exercise dominion and control over them even though the assets are nominally owned by others.

39. Drug traffickers often use cellular phones and pagers to conduct their business.

40. In addition, this investigation has revealed that DNP and dnrpharmacy.com utilizes multiple computers to conduct its internet drug business at 4215 and 4219 Commercial Way, Glenview, Illinois. GARISH RAY take orders for controlled substances over computers and communicates with SAM SOANS in India through emails.

41. Because this warrant requests permission to search a computer, agents specially trained in the use and retrieval of information from computers will assist with the search of computers

or computer related equipment.

42. Searching computer systems for criminal evidence is a highly technical process requiring expert skill and a properly controlled environment. The vast array of computer hardware and software available requires even computer experts to specialize in some systems and applications, so it is difficult to know before a search which expert is qualified to analyze the system and its data, or whether additional resources, hardware or software may be required to analyze the data. In any event, however, data search protocols are exacting scientific procedures designed to protect the integrity of the evidence and to recover even "hidden", erased, compressed, password protected or encrypted files. Since computer evidence is extremely vulnerable to inadvertent or intentional modification or destruction (both from external sources or from destructive code embedded in the system as a "booby trap"), a controlled environment is essential to its complete and accurate analysis.

43. Data analysts may use several, different techniques to search electronic data for evidence or instrumentalities of a crime. These include, but are not limited to the following: examining file directories and subdirectories for the lists of files they contain, "opening" or reading the first few "pages" of a selected file(s) to determine their contents, scanning for deleted or hidden data, and searching for key words or phrases. It may be necessary to use several different search techniques to identify and seize data with evidentiary value, while leaving other

data as undisturbed as possible.

44. Your Affiant believes, based upon his training and experience in investigating illegal internet pharmacy businesses, that the seized computer equipment from 4215 and 4219 Commercial Way, Glenview, Illinois, has been used to transact business in the purchase and sale of controlled substances and prescription drugs and that records relating this conduct will be stored on computers within 4215 and 4219 Commercial Way, Glenview, Illinois. Your Affiant believes there is probable cause to search the computers within 4215 and 4219 Commercial Way, Glenview, Illinois for all electronic data records relating to violations of Title 21, United States Code, Section 841, (distribution of a controlled substance); Section 843(a) (obtaining and dispensing controlled substances with a revoked, suspended or expired DEA registration number); Section 952 (importation of a controlled substance); and Sections 846 and 963 (attempt and conspiracy).

45. The search procedure of electronic data contained on computer hard drives and media may include the following techniques (the following is a non-exclusive list, and the government may use other procedures that, like those listed below, minimize the review of information not within the list of items to be seized as set forth herein):

a. examination of all of the data contained in such computer hardware, computer software, and/or memory storage devices to determine whether that data falls within the items to be

seized as set forth herein;

b. searching for and attempting to recover any deleted, hidden, or encrypted data to determine whether that data falls within the list of items to be seized as set forth herein (any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offenses, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offenses specified above);

c. surveying various file directories and the individual files they contain to determine whether they include data falling within the list of items to be seized as set forth herein;

d. opening or reading portions of files in order to determine whether their contents fall within the items to be seized as set forth herein;

e. scanning storage areas to discover data falling within the list of items to be seized as set forth herein, to possibly recover any such recently deleted data, and to search for and recover deliberately hidden files falling within the list of items to be seized; and/or

f. performing key word searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are likely to appear in the evidence described in Attachment C.

Conclusion

46. Based on the foregoing facts, I believe there is probable cause to support the requested criminal complaint and that there is probable cause to believe that the premises located within 4215 and 4219 Commercial Way, Glenview, Illinois which is described as an office in a one-story, dark brown brick structure with a glass front door with two windows on opposite sides of the door with the numbers 4215 and 4219 stenciled on the windows, with the words DAWN and AMKAS visible on the window to the right of the door contains fruits, evidence and instrumentalities of criminal offenses against the United States as identified in Attachment C,

namely violations of Title 21, United States Code, Section 841, (distribution of a controlled substance); Section 843(a) (obtaining and dispensing controlled substances with a revoked, suspended or expired DEA registration number); Section 952 (importation of a controlled substance); and Sections 846 and 963 (attempt and conspiracy);

FURTHER AFFIANT SAYETH NOT.

Christopher J. Geer
Special Agent, DEA

SUBSCRIBED AND SWORN TO BEFORE
ME THIS ____TH DAY OF OCTOBER 2006.

NAN R. NOLAN
U.S. Magistrate Judge

ATTACHMENT B

The premises at 4215 and 4219 Commercial Way, Glenview, Illinois, which are located in an office in a one-story, dark brown brick structure with a glass front door with two windows on opposite sides of the door with the numbers 4215 and 4219 stenciled on the windows, with the words DAWN and AMKAS visible on the window to the right of the door. See Attached Photo.

ATTACHMENT C

ITEMS TO BE SEIZED:

Evidence of violations of Title 21, United States Code, Section 841, (distribution of a controlled substance), Section 952 (importation of a controlled substance) and Sections 846 and 963 (attempt and conspiracy), including, but not limited to:

1) Financial information and statements, books, records, receipts, cash disbursements journals, safe deposit box keys, bank statements, state and federal tax returns, and other records related to the receipt, expenditure and concealment or other disposition of income;

2) United States Currency;

3) Records, notebooks, memoranda, receipts, ledgers, photographs, audio tapes, video tapes, lists and supplier or customer information relating to the purchase, sale, or distribution of controlled substances and prescription drugs;

4) Books, records, lists, receipts, bank and savings and loan records of deposit, statements and other bank records, letters of credit, money orders, cashiers' checks, passbooks, canceled checks, certificates of deposit, lease agreements, loan records, customer account information, income and expense summaries, cash disbursement journals, financial statements and related financial information pertaining to the purchase, lease, sale or other disposition of real or personal property, including real estate, vehicles, jewelry and furniture;

5) Safes, hidden compartments, and the contents therein.

6) Photographs of defendants with co-conspirators and

assets obtained from drug trafficking;

7) Mobile cellular telephones and related equipment and the contents thereof, including antennas and power sources;

8) Any and all computers, including both hardware and software, and the contents thereof, which includes any and all magnetic media, including diskettes, magnetic tapes, hard drives or other items capable of storing computer information and any and all computer related documents and/or software manuals relating to the operation of the programs contained in such computers for the purpose of retrieving all stored data within that:

(i) provide information regarding the identities of the participants and/or coconspirators involved in violations of Title 21, United States Code, Section 841, (distribution of a controlled substance), Section 952 (Importation of a controlled substance), and Sections 846 and 963 (Attempt and Conspiracy);

(ii) may be used or have been used to transact the purchase or sale of controlled substances and prescription drugs;

iii) all information relating to the use of financial institutions including but not limited to banks or currency exchanges to send or receive money;

iv) all information relating to the use of bank accounts; and

v) all information relating to the use of proceeds from distribution of controlled substances;

9) The search shall be conducted pursuant to the following protocol:

With respect to the search of any computers or electronic storage devices seized from the location, the search procedure of electronic data contained in any such computer may include the following techniques (the following is a non-exclusive list, and the government may use other procedures that, like those listed below, minimize the review of information not within the list of items to be seized listed in this Attachment:

a. examination of all of the data contained in such computer hardware, computer software, and/or memory storage devices to determine whether that data falls within the items to be seized as set forth herein;

b. searching for and attempting to recover any deleted, hidden, or encrypted data to determine whether that data falls within the list of items to be seized as set forth herein (any data that is encrypted and unreadable will not be returned unless law enforcement personnel have determined that the data is not (1) an instrumentality of the offenses, (2) a fruit of the criminal activity, (3) contraband, (4) otherwise unlawfully possessed, or (5) evidence of the offenses specified above);

c. surveying various file directories and the individual files they contain to determine whether they include data falling within the list of items to be seized as set forth herein;

d. opening or reading portions of files in order to determine whether their contents fall within the items to be seized as set forth herein;

e. scanning storage areas to discover data falling within the list of items to be seized as set forth herein, to possibly recover any such recently deleted data, and to search for and recover deliberately hidden files falling within the list of items to be seized; and/or

f. performing key word searches through all electronic storage areas to determine whether occurrences of language contained in such storage areas exist that are likely to appear in the evidence described in this Attachment.

Attachment A

Statutory Offenses

1. GARISHKUMAR RAY, also known as, GARISH RAY and SAM SOANS from approximately June 2005 through October 23, 2006, did conspire with each other and others to distribute and dispense, and to cause to be distributed and dispensed, prescription drugs that are controlled substances, other than for legitimate medical purpose and not in the usual course of professional practice, in violation of Title 21, United States Code, Section 846; Title 18, United States Code, Section 2; and Title 21 Code of Federal Regulations, Section 1306.04.

2. GARISHKUMAR RAY, also known as, GARISH RAY and SAM SOANS from approximately January 23, 2006 through October 23, 2006, did knowingly use a DEA registration number which was fictitious, revoked, suspended, or expired in the course of obtaining controlled substances from pharmaceutical distributors, in violation of Title 21, United States Code, Section 843(a) and Title 18, United States Code, Section 2.

3. GARISHKUMAR RAY, also known as, GARISH RAY and SAM SOANS from approximately January 23, 2006 through October 23, 2006, did knowingly use a DEA registration number which was fictitious, revoked, suspended, or expired in the course of dispensing controlled substances, in violation of Title 21, United States Code, Section 843(a) and Title 18, United States Code, Section 2.